

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ANA NUNEZ LOPEZ,
Plaintiff,

vs.

FIESTA MART, L.L.C.
Defendant.

§
§
§
§
§
§
§

Civil Action No. 3:21-CV-808

**DEFENDANT'S NOTICE OF REMOVAL AND REQUEST FOR LEAVE TO
PROCEED WITHOUT LOCAL COUNSEL**

Defendant Fiesta Mart, LLC ("Defendant") files this Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1446, requests leave to proceed without local counsel, and respectfully shows:

Commencement and Service

1. On March 5, 2021, Ana Nunez Lopez ("Plaintiff") commenced this action by filing an Original Petition ("State Court Petition") in the 1st County Court at Law, of Dallas County, Texas. The case is styled Cause No. CC-21-00840-A; *Ana Nunez Lopez vs. Fiesta Mart, L.L.C.*¹ Plaintiff seeks monetary relief over \$100,000 but not more than \$250,000.

2. The lawsuit was first served on Defendant on March 9, 2021.²

3. Defendant timely answered in state court on April 1, 2021.³

¹ See *Exhibit C*, Plaintiff's Original Petition with citation.

² See *Exhibit E*, Citation and Return of Service.

³ See *Exhibit F*, Defendant's Original Answer and Affirmative Defenses.

4. This Notice of Removal is filed within thirty days of the receipt of service of process and is therefore considered timely pursuant to 28 U.S.C. § 1446(b). This Notice of Removal is also filed within one year of the commencement of this action and is thus timely pursuant to 28 U.S.C. § 1446(c).

Grounds for Removal

5. Defendant is entitled to remove the state court action to this Court pursuant to 28 U.S.C. §§ 1332, 1441 and 1446 because this action is a civil action involving an amount in controversy exceeding \$75,000.00 between parties with diverse citizenship.

Diversity of Citizenship

6. There is complete diversity of citizenship between Plaintiff and Defendant.

7. Plaintiff is a citizen of Texas.⁴

8. Defendant Fiesta Mart, LLC is not a citizen of Texas.⁵ While Defendant Fiesta Mart, LLC is a Domestic Limited Liability Company, its sole member is Bodega Latina Corp., a Delaware corporation with its principal place of business, or its “nerve center,” in California.⁶ Defendant’s citizenship as an LLC is determined by the citizenship of its members.⁷ Defendant’s sole member is a corporation, and a corporation is deemed to be a “citizen” of the state where it maintains its principal

⁴ See *Exhibit C*, Plaintiff’s Original Petition at ¶ 2.1.

⁵ See *Exhibit G*, Affidavit of Michael Saltzstein.

⁶ *Id.* at ¶ 3.

⁷ See e.g., *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008).

place of business (its “nerve center”) and the state of its incorporation.⁸ Therefore, Defendant is a citizen of Delaware and California.

Amount in Controversy

9. This is a personal injury case with well over \$75,000 in controversy at the time of this removal. Per her Petition, Plaintiff pleads monetary relief in an amount more than \$100,000 but not more than \$250,000, pursuant to Rule 47(c) of the Texas Rules of Civil Procedure.

Venue

10. Venue lies in the Northern District of Texas, Dallas Division, pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) because Plaintiff filed the action in this judicial district and division.

Notice

11. Defendant will give notice of the filing of this Notice of Removal to all parties of record pursuant to 28 U.S.C. § 1446(d). Defendant will also file with the clerk of the state court and will serve upon Plaintiff’s counsel, a notice of the filing of this Notice of Removal.

Exhibits to Notice of Removal

12. In support of this Notice of Removal and pursuant to 28 U.S.C. §1446(a), true and correct copies of the following documents are attached to this Notice as corresponding lettered exhibits:

⁸ See, 28 U.S.C § 1332(c)(1); see also, *Hertz Corp. v. Friend*, 559 U.S. 77, 130 S. Ct. 1181, 1185-86 (2010).

- A. Index of documents filed in Cause No. CC-21-00840-A; *Ana Nunez Lopez vs. Fiesta Mart, LLC*, in the County Court at Law No. 1 of Dallas County, Texas.– ***Exhibit A***
- B. Docket Sheet for Cause No. CC-21-00840-A; *Ana Nunez Lopez vs. Fiesta Mart, LLC*, in the County Court at Law No. 1 of Dallas County, Texas. – ***Exhibit B***
- C. Plaintiff's Original Petition filed on March 5, 2021, Cause No. CC-21-00840-A; *Ana Nunez Lopez vs. Fiesta Mart, LLC*, in the County Court at Law No. 1 of Dallas County, Texas. – ***Exhibit C***
- D. Correspondence to Court Requesting citation filed March 5, 2021, Cause No. CC-21-00840-A; *Ana Nunez Lopez vs. Fiesta Mart, LLC*, in the County Court at Law No. 1 of Dallas County, Texas. – ***Exhibit D***
- E. Citation Issued March 8, 2020; Served on March 9, 2021 and Return of Service filed March 9, 2021, Cause No. CC-21-00840-A; *Ana Nunez Lopez vs. Fiesta Mart, LLC*, in the County Court at Law No. 1 of Dallas County, Texas. – ***Exhibit E***
- F. Defendant's Original Answer and Affirmative Defenses filed April 1, 2021, Cause No. CC-21-00840-A; *Ana Nunez Lopez vs. Fiesta Mart, LLC*, in the County Court at Law No. 1 of Dallas County, Texas. – ***Exhibit F***
- G. Affidavit of Michael Saltzstein. – ***Exhibit G***
- H. Certificate of Interested Persons – ***Exhibit H***
- I. Notice of Filing Removal in State Court – ***Exhibit I***

Request for Leave to Proceed Without Local Counsel

13. Counsel for Defendant maintains its office in Austin, Texas, in the Western District. Local Rule 83.10 requires local counsel to appear in cases where underlying counsel maintains its office outside of the Northern District, unless leave of court is granted from the presiding judge. Counsel for Defendant represents

Defendant Fiesta Mart LLC throughout the State of Texas and respectfully requests leave from the Court to appear without local counsel.

Prayer

WHEREFORE, Defendant, pursuant to the statutes cited herein and in conformity with the requirements set forth in 28 U.S.C. § 1446, removes this action from the County Court at Law of Dallas County, Texas to this Court and requests leave to proceed without local counsel.

Respectfully submitted,

By: /s/ Trek Doyle

Trek Doyle

State Bar No. 00790608

trek@doyleseelbach.com

Karl Seelbach

State Bar No. 24044607

karl@doyleseelbach.com

James D. Snyder

State Bar No. 24088447

james@doyleseelbach.com

Ryan Cantu

State Bar No. 24076853

ryan@doyleseelbach.com

Doyle & Seelbach PLLC

7700 W. Highway 71, Suite 250

Austin, Texas 78735

512.960.4890 Telephone

doyleseelbach.com

ATTORNEYS FOR DEFENDANT



Doyle & Seelbach

CERTIFICATE OF SERVICE

By my signature above, I hereby certify that a true and correct copy of the above and foregoing document has been served by electronic service to counsel identified below on this, the 7th day of April 2021.

Christopher R. Garcia
State Bar No. 24000140
chris@chrisgarciapc.com
Law Offices of Chris Garcia, P.C.
407 North Cedar Ridge Drive, Ste. 300
Duncanville, Texas 75116
214.522.4878 telephone
214.522.5060 fax

ATTORNEY FOR PLAINTIFF